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NAUTILUS INSURANCE COMPANY

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT "SONNY" WOOD, an individual;
ACCESS MEDICAL, LLC, a Delaware limited
liability company,

Plaintiffs,

v.

NAUTILUS INSURANCE GROUP, a Delaware
limited liability company, et al.,

Defendant.

NAUTILUS INSURANCE COMPANY,

Cross-Claimant,

v.

ROBERT "SONNY" WOOD; ACCESS
MEDICAL, LLC; FLOURNOY
MANAGEMENT, LLC AND ROES 1-10,
inclusive,

Counter-Defendants.

Case No. 2:17-CV-02393-MMD-DJA

STIPULATION AND ~~PROPOSED~~ ORDER
FOR EXTENSION OF EXPERT WITNESS
DISCLOSURE DEADLINE

The current expert witness disclosure deadline is December 18, 2020. The parties have been diligently working to schedule the depositions of Nautilus Insurance Company and Mr. Wood following the Court's November 30, 2020 order denying their prior request to continue all discovery deadlines. Defendants noticed the deposition of Nautilus Insurance Company for December 10, 2020, but counsel for Nautilus had a conflict on that date (two depositions in another matter) that could not be changed. Defendants will be providing dates to take Mr. Wood's deposition by December 11, 2020.

To provide the parties enough time to conduct the depositions of (1) the 30(b)(6) witness of Nautilus Insurance Company and (2) Robert "Sonny" Wood, and provide the parties' respective experts enough time to analyze their testimony, the parties hereby stipulate to continue the expert witness disclosure deadline to January 8, 2021, and the rebuttal expert witness disclosure by February 8, 2021. No other deadlines will be affected by this continuance.

In compliance with Local Rule 26-3:

Discovery completed:

- The Parties held a telephonic 26(f) Conference on January 11, 2018;
- The Parties served their initial FRCP 26 disclosures on February 2, 2018;
- Insureds propounded their First Set of Interrogatories and Requests for Production, on February 9, 2018, and Nautilus provided responses on March 22, 2018;
- Nautilus propounded their First Set of Interrogatories, Requests for Production and Requests for Admission on March 9, 2018, and the Insureds provided their responses on April 23, 2018;
- The Parties conducted a meet and confer conference telephonically on April 13, 2018 regarding Nautilus's responses to the Insureds' First Set of Requests for Production. The Insureds sought, in part, to have Nautilus produce its insurance claim file regarding the handling of the Insureds' claim in the Switzer Action, from which Nautilus refused on the grounds that the Insureds' claims for breach of contract, "bad faith", and Unfair Claims Practices are improper, and therefore the

underlying claim files are not relevant;

- The Insureds brought a Motion to Compel on June 11, 2018. The Court denied the Insureds' Motion to Compel on June 14, 2018 based on its opinion that the Parties did not meet and confer in good faith;
- The Parties conducted another telephonic meet and confer conference on June 20, 2018, the result of which was that Nautilus Insurance Company supplemented one of its discovery responses with the tender letters and responses that were sent in the Switzer Action.
- On July 9, 2018, Nautilus served supplemental responses to Request Numbers Two (2) and Seven (7) of the Insureds' First Set of Requests for Production. In these supplemental responses, Nautilus produced its claim file as prepared in its ordinary course of business between November 7, 2016 and July 6, 2017 (these dates are related to the promissory estoppel claim). Nautilus also produced a privilege log at that time.
- On October 12, 2018, Mr. Wood propounded his Second Set of Interrogatories, Second Set of Requests for Production, and First Set of Requests for Admission, from which Nautilus served its responses on November 26, 2018.
- The Parties subsequently conducted an additional telephone meet and confer conference on December 10, 2018 as it related to Nautilus's responses to the Insureds' propounded discovery.
- On February 15, 2019, Wood and Access Medical filed a Motion to Compel regarding the aforementioned discovery requests.
- On April 23, 2019, the Court entered an Order Denying Nautilus's Motion to Strike and Motion to Dismiss.
- On May 9, 2019, the Court heard oral argument on Wood and Access Medical's Motion to Compel and entered an Order Granting the Motion in Part and Denying it in Part.

- On May 22, 2019, Insureds served their Fifth Supplemental Disclosure and List of Witnesses Pursuant to Rule 26.
- On May 23, 2019, Insureds filed an Objection/Appeal of the Magistrate Judge Order on its Motion to Compel.
- On July 19, 2019, Nautilus supplemented its Document Production with Claims File Documents in response to the Court's granting of Insureds' Motion to Compel on May 9, 2019.
- On July 29, 2019, Insureds filed a Motion to Compel relating to Nautilus's Responses to Insureds' Second Set of Interrogatories.
- On August 26, 2019, Nautilus supplemented its responses to Insureds' Section Set of Interrogatories.
- On September 9, 2019, Nautilus supplemented its Document Production with further Claims File Documents in response to the Court's granting of Insureds' Motion to Compel on May 9, 2019.
- On September 16, 2019, Nautilus propounded Requests for Production of Documents on Insureds.
- On September 23, 2019, the Court heard oral argument on Insureds' Motion to Compel Responses to its Special Interrogatories and granted the Motion in part and denied it in Part, finding that Nautilus's supplemental responses of August 26, 2019 satisfied the Order.
- On October 7, 2019, the Court denied Insureds' May 23, 2019 Objection/Appeal of the Magistrate Judge's May 9, 2019, Order on its Motion to Compel. This Order clarified for both parties the scope of the pleadings and of discovery.
- On October 16, 2019, Nautilus granted Insureds' request for an extension of time to respond to Nautilus's September 16, 2019 Requests for Production of Documents.
- In December, 2019, discovery disputes arose regarding subpoenas to third parties and notices of deposition of Nautilus and its former employees. Nautilus filed

1 motions to resolve those disputes, and the Court granted those motions on February
2 20, 2020.

- 3 • On April 10, 2020, the Court entered the parties' stipulated protective order.
- 4 • On April 29, 2020, Nautilus produced confidential "work flow" documents
- 5 following extended meet and confer efforts with the Insureds' counsel.
- 6 • On June 4, 2020, Nautilus supplemented its production of confidential "work flow"
- 7 documents following further meet and confer efforts with the Insureds' counsel.
- 8 • On June 11, 2020, the Insureds served a subpoena on third party law firm Gordon
- 9 & Rees, who had served as defense counsel for the insured in the underlying action.
- 10 On June 25, 2020, Nautilus moved for a protective order and sanctions on the
- 11 ground that this subpoena exceeded the scope of discovery. On August 7, 2020, the
- 12 Court granted the motion, quashing the subpoena in its entirety, and issued
- 13 monetary sanctions against the Insureds.
- 14 • Between July 28, 2020, and September 3, 2020, the Insureds served seven amended
- 15 notices of deposition of Nautilus pursuant to Rule 30(b)(6) as the parties met and
- 16 conferred regarding the topics of the deposition.

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18 Discovery that remains to be completed:

- 19 • The deposition of Nautilus and Mr. Wood.
- 20 • Disclosure of expert witnesses, rebuttal experts and depositions of said experts.
- 21 • Potential other depositions as required based upon information gathered during the
- 22 aforementioned depositions
- 23 • Reasons why deadline was not satisfied: The parties have been awaiting rulings
- 24 from the District Court Judge on the scope of discovery that will necessarily affect
- 25 the scope of the above depositions. After the Court's November 30, 2020 ruling
- 26 denying the prior stipulation continuing that discovery, the parties have been
- 27

communicating to set those depositions on dates convenient to those parties and counsel, but have been unable to obtain mutually agreeable dates that would allow sufficient time for expert review of transcripts.

- Proposed schedule: The two depositions discussed above will be completed by December 31, 2020.

The parties are committed to completing the above depositions, disclosing experts by January 8, 2021, disclosing rebuttal experts by February 8, 2021, and completing expert discovery according to the current schedule in this case.

IT IS SO STIPULATED.

DATED: December 10, 2020

SELMAN BREITMAN LLP

By: /s/ Linda Wendell Hsu

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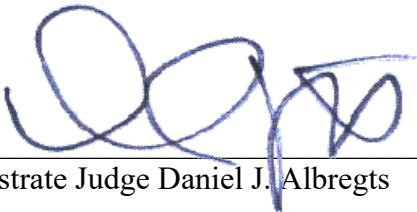
1 DATED: December 10, 2020

KRAVITZ, SCHNITZER & JOHNSON, CHTD

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13 **IT IS SO ORDERED:**

14 DATED: December 11, 2020

15 
16 Magistrate Judge Daniel J. Albregts

Selman Breitman LLP
ATTORNEYS AT LAW

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SELMAN BREITMAN LLP and, pursuant to Local Rule 5.1, service of the foregoing **STIPULATION AND PROPOSED ORDER FOR EXTENSION OF EXPERT WITNESS DISCLOSURE DEADLINE** on this 10th day of December, 2020, via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list, as follows:

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